

REMARKS

In the March 14, 2003 Office Action, the Examiner noted that claims 1-24 were pending in the application and rejected all of the claims under 35 U.S.C. § 103(a). In rejecting the claims, U.S. Patents 5,742,039 to Sato et al.; 5,126,936 to Champion et al.; and 5,974,399 to Giuliani et al. (References A, F and G, respectively) were cited. Claims 1-24 remain in the case. The Examiner's rejections are traversed below.

The Invention

The present invention is directed to an electronic commerce system that stores information for automatically changing a price or publicizing interest in a transaction, when a condition that has been stored is satisfied.

The Prior Art

U.S. Patent 5,974,399 to Giuliani et al.

The Giuliani et al. patent is directed to a system for generating purchase incentives based on price differentials between a promoted item and a competitive item. The purchase incentives, discount coupons and the like, are generated based on information about whether a customer purchases the promoted item or a competitive item and the price differential between the two items. As illustrated in Fig. 4 and described at column 4, lines 14-52, the system taught by Giuliani et al. is implemented at one or more retail stores using checkout terminals 12.1, 12.2,...12.N as input devices to detect items that are purchased by customers and databases, including an item record file 20 which contains a record of each item in the store's inventory. An incentive control computer 22 has access to related databases, such as "a coupon look-up file 24 and a coupon log file 26" (column 4, lines 51-52). The computer 22 is used to "retrieve the item codes of the promoted product and (optionally) of any other competitive products" (column 6, lines 55-56) and then obtain from store controller 10 "the current store prices for the promoted product and other competitive products" (column 6, lines 60-61). According to the cited portion of the Summary, this information is used to produce an incentive ... tailored to a consumer's purchasing behavior and to the price of the promoted item relative to the competitive item" (column 2, lines 15-17 and 62-64) by identifying a purchased item as associated with at least one other additional item and generating an appropriate incentive.

U.S. Patent 5,742,039 to Sato et al.

The Sato et al. patent is directed to a system for managing shipments of commodities using two-dimensional bar codes. A master file is maintained with information such as "a commodity code, a commodity name, a unit price ... and sold amount" (column 1, lines 34-35, with a similar list at column 8, line 22).

U.S. Patent 5,126,936 to Champion et al.

The Champion et al. patent is directed to a goal-directed financial asset management system. Three portions of Champion et al. were cited, one each in the Summary, Description of the Invention, and claims. The portion of the Summary that was cited describes the object of the invention disclosed by Champion et al. as receiving asset selection, risk adjustment and deposits and withdraws as requests from investors and automatically purchasing designated assets or asset related instruments in response to adjustments in current market evaluation to reflect the net level of risk desired by the investors. These purchases include "long or short positions in a given capital market ... to selectively establish the degree that the account tracks the market" (column 3, lines 23-26). The cited portion of the description of the Invention describes the use of a market indicator (MM) selected by investors to indicate whether the market position is "long" or "short". The system taught by Champion et al. "automatically reduces the implied leverage in a customer's asset category whenever an adverse price change in that asset's market index has caused the category's space 'effective' space MM (RISK) to reach an unacceptably high level" (column 4, lines 41-45). It is submitted that the portion of the claims cited in the Office Action would provide little or no disclosure of the invention to a person of ordinary skill in the art.

Rejections under 35 U.S.C. § 103(a)

In item 2 on pages 2-3 of the Office Action, claims 1 and 15 were rejected under 35 U.S.C. § 103(a) as unpatentable over Giuliani et al. in view of Sato et al.

In rejecting the claims, a portion of the Description of the Related Art section, two portions of the Description of the Preferred Embodiment and one line of claim 6 in Sato et al. were cited. The majority of the text cited in rejecting the claims is from the Description of the Related Art section in column 2 which describes the input of data to a commodity management system using a combination of bar codes of several types and manual input. The limited amount of information provided by conventionally used bar codes is noted, resulting in the need for

manual input if more detailed information is desired. The cited portions of the Description of the Preferred Embodiment describe the use of two-dimensional bar code reader 11 (Fig. 4) to read "commodity information" (column 6, line 43) for commodities "stocked in the warehouse or ... [being] shipped" (column 6, lines 37-38) and "storing information concerning registered commodities, calculated sales money amount information" (column 9, lines 21-22), etc. The cited line in claim 6 reads "mation for each commodity unit comprises the unit price of " (column 16, line 25). Therefore, it is assumed that the preceding line, which includes "a price look up master file", was intended to be cited.

Both claims 1 and 15 recite storing "information about a change condition and a change price of the desired sale or purchase price" (claim 1, lines 4-5 and claim 15, lines 3-4) and "changing a price if the information about the change condition or the change price ... is satisfied" (claim 1, lines 6-7 and claim 15, lines 5-6). In rejecting claims 1 and 15, it was asserted that Giuliani et al. disclosed storing a change condition and a change price in the Abstract; column 1, line 65; and column 2, lines 5-65 and that changing the price under the recited conditions was disclosed somewhere in column 4, lines 5-45; column 9, lines 40-65; and column 6, lines 55-65. It is unclear what in these cited portions is relevant to the limitations quoted above. In particular, it is unclear what the Examiner believes Giuliani et al. teaches regarding "information about a change condition" as recited in claims 1 and 15. It is assumed that the "change price" recited in claims 1 and 15 has been construed to correspond to the coupon generated as an incentive by the system taught by Giuliani et al. However, all that has been found in Giuliani et al. to trigger the generation of a coupon is the purchase of a promoted item or a competing item. There is nothing about such a purchase or the information that is described as stored in the system taught by Giuliani et al. that could be construed as "a change condition" as recited in the claims.

Furthermore, it is not understood what the teachings of Sato et al. add to Giuliani et al. that would be relevant to the present invention. The only thing that seems to be in common between the present invention and Sato et al. is use of the word "commodity". Nothing was cited or has been found in Sato et al. related to changing the price of an item. The price of an item is simply part of the information stored in the database along with the commodity code and name. As discussed above, Sato et al. is primarily directed to using a different type of "bar code" that contains more information to reduce the amount of data input manually for items stored in a warehouse or being shipped.

Thus, the combination of Giuliani et al. and Sato et al. would suggest to one of ordinary skill in the art that two-dimensional bar codes could be used to input data when an item is purchased, so that a coupon can be generated when desired. Comparing these teachings to claims 1 and 15 as a whole, there is no suggestion of a "system aiding in a purchase and a sale of a commodity" (claims 1 and 15, lines 1-2) by "changing a price if the information about the change condition or the change price ... is satisfied" (claim 1, line 6-7 and claim 15, lines 5-6). For the above reasons, it is submitted that claims 1 and 15 patentably distinguish over Giuliani et al. in view of Sato et al.

In item 3 on pages 3-21 of the Office Action, claims 2-14 and 16-24 were rejected under 35 U.S.C. § 103(a) as unpatentable over Giuliani et al. in view of Sato et al. and further in view of Champion et al. To the teachings of Giuliani et al. and Sato et al. discussed above, Champion et al. adds an investment system that automatically changes "implied leverage in a customer's asset category whenever an adverse price change in that asset's market index has caused the category's 'effective' ... (risk) to reach an unacceptably high level" (column 4, lines 42-45). Since Champion et al. was not used in rejecting claims 1 and 15, it is unclear whether the Examiner considers the market index MM taught by Champion et al. to be equivalent to "a change condition and a change price of the desired sale or purchase price" (e.g., claim 2, lines 4-5). However, it is submitted that the information stored by Champion et al. is not used for "aiding in a purchase and a sale of a commodity" as recited in the preambles of the independent claims, but rather is used in determining assets attributable to an account holder. The purchase and sale of commodities is totally separate from the value in customer accounts in the system taught by Champion et al.

In rejecting claims 2-4, 12, 16-18, and 20-22, column 16, line 25 of Sato et al. was cited as disclosing "searching for desired price" (e.g., Office Action, page 4, line 5). As noted above, presumably, the line preceding line 25 was intended to be cited, i.e., the mention of "a price lookup master file". However, as discussed above, Sato et al. does not teach anything relevant to "a desired price ... [or] information about a change condition and a change price of the desired price of a transaction partner" (e.g., claim 2, lines 6-7). Rather, the price lookup master file recited in claim 16 of Sato et al. apparently corresponds to the price information in column 7 of the table illustrated in Fig. 7 which is stored in PLU master 51 in Fig. 10, as described at column 11, lines 1-40 and column 13, lines 5-22. As discussed above, these tables relate to a price assigned to an item in a warehouse or being shipped. There is no suggestion that the price might be able to change as recited in claims 2-4, 12, 16-18, and 20-22. Furthermore, it is

submitted that nothing in either Giuliani et al. or Sato et al. involves "searching for a desired price and a change condition of the desired price" in a database maintained by a "system aiding in a purchase and a sale of a commodity" as recited in the preambles of claims 2-3, 12, 16-18, and 20-22. Therefore, it is submitted that claims 2-4, 12, 16-18, and 20-22 further patentably distinguish over the cited references for the reasons discussed above.

Also, in rejecting claims 2-4, 12, 16-18, and 20-22, the Summary and claims 1-3 of Champion et al. were cited as disclosing "searching for at least one of a desired price and information about a change condition and a change price of the desired price of a transaction partner" (e.g., claim 2, lines 6-7) or for both the desired price and information about a change condition and a change price as recited in claims 3, 4, 17, 18 and 20-22. It is unclear what the Examiner found relevant to these limitations in the cited portions of Champion et al. If Champion et al. continues to be used as teaching or suggesting the limitations quoted above, the Examiner is respectfully requested to explain why one of ordinary skill in the art would find Champion et al. relevant to what is recited in the claims.

Furthermore, it is unclear what the Examiner found in any of the cited references regarding "a transaction partner that registers a sale of a designated commodity in response to a purchase request designating the commodity" (e.g., claim 2, lines 7-9) or "that registers a purchase of a designated commodity in response to a sale request designating the commodity" (e.g., claim 2, lines 10-11). In Giuliani et al., the transactions are between customers and store(s) in which the system disclosed by Giuliani et al. generates coupons for the customers. In Sato et al., no transactions of any kind have been found, at least not involving purchases. In Champion et al. the transactions that occur in "capital markets" (e.g., column 1, lines 9 and 12), such as those trading in "stocks and bonds" (column 1, line 19); "commodity options; international capital, real estate, and currency funds; 'unmanaged' index funds; REIT limited partnerships ...; financial futures contracts, and other so-called derivative instruments" (column 1, lines 25-29) are monitored. However the system disclosed by Champion et al. apparently establishes "virtual portfolios" because a "customer's account simply responds to the various markets (stocks, bonds, gold, etc.) as though such transactions had occurred" (column 4, lines 28-30). Thus, nothing has been found in Champion et al. that is relevant to aiding the purchase or sale of any commodities.

Claims 3, 4, 12, 16-18 and 20-22 all recite limitations similar to those quoted above from claim 2. Therefore, it is submitted that claims 2-4, 12, 16-18 and 20-22 and claims 5-9 which

depend from claims 2-4 patentably distinguish over the three cited references for the reasons discussed above.

Furthermore, claims 5-8 recite additional details regarding concluding the transaction based on what is obtained by the searching unit (claim 5), or what is constituted by the change condition (claims 6-8). None of the details recited in claims 5-8 have been found in the cited references. If claims 5-8 continue to be rejected over these references, the Examiner is respectfully requested to particularly point out where the limitations recited therein are taught or suggested by the cited references.

Furthermore, claim 9 recites details regarding the transaction partner. The only mention of transaction partners found in the rejection of claim 9 on pages 3-5 of the Office Action was in relation to column 3, lines 15-25 and column 11, lines 40-65 of Champion et al. As discussed above, these portions of Champion et al. do not teach or suggest transaction partners. If claim 9 continues to be rejected over the same combination of references, the Examiner is respectfully requested to explain how the limitations recited in claim 9 can be found in the cited references.

Claims 10, 13 and 23 recite "changing a desired price of the commodity when a time stored in said registered commodity data storing unit elapses" (e.g., claim 10, lines 6-7). Nothing was cited in the prior art supporting the assertion that it would be obvious to one of ordinary skill in the art to perform such an operation. If the rejections are maintained, the Examiner is respectfully requested to cite additional evidence supporting the rejections or provide an affidavit of personal knowledge, in accordance with MPEP § 2144.03.

Claims 11, 14 and 24 recite "making the sale or purchase desire of the commodity public if the public condition stored in said registered commodity data storing unit is satisfied" (e.g., claim 11, last two lines). As in the case of claim 10, nothing was cited in the prior art supporting the assertion that this limitation would be obvious to one of ordinary skill in the art. The Examiner is similarly requested to either cite additional prior art or provide an affidavit of personal knowledge, in accordance with MPEP § 2144.03.

Claim 19 recites limitations similar to claim 1, except that means-plus-function language is used. Therefore, it is submitted that claim 19 patentably distinguished over the cited references for the reasons discussed above with respect to claims 1 and 15.

Request for Examiner Interview

If the claims continue to be rejected over the prior art references cited in the March 14, 2003 Office Action, the Examiner is respectfully requested to contact the undersigned to arrange an Examiner Interview for the purpose of explaining what is relevant in the cited portions of the references in which no relevant disclosure could be found, as discussed above.

Summary

It is submitted that the references cited by the Examiner, taken individually or in combination, do not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-24 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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